

Alfred Joshua, MD, MBA, CCHP-P, FAAEM
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Forensic Expert Report

I. INTRODUCTION

My name is Alfred Joshua, MD, MBA, CCHP-P, FAAEM. My business address is P.O. Box 5000 PMB 525 Rancho Santa Fe, CA 92067. I was retained by Attorney Kendall Coffey related to the evaluation of the clinical risks for Mr. Todd Kozel based on an incarcerated institutional setting and the medical, mental health, and dental infrastructure provided in a federal correctional facility.

II. BACKGROUND AND EDUCATION

I received my Doctor of Medicine from the State University of New York, Syracuse (Upstate University), and completed my post-graduate residency training at UC San Diego Emergency Medicine Residency program in San Diego. I completed a two-year fellowship in Hospital Administration at UC San Diego under the mentorship of the CEO, CMO and President of the Medical Group. I have been a licensed Physician and Surgeon in the State of California and have maintained my board certification in Emergency Medicine (ABEM) since July 2012. I have worked in the healthcare industry as an emergency medicine physician, primary care, detoxification services, and correctional medicine and administration. Additionally, I have a Master of Business Administration (MBA) degree from the University of California, Irvine. I received a Certification for Certified Correctional Health Professional (CCHP) from National Commission of Correctional Healthcare (NCCHC). I have also received the CCHP physician specialty certification (CCHP-P) upholding the highest standards of correctional healthcare. There are only around 70 correctional physicians across the country who have received the designation as of November 2017.

A. Professional Experience

I was selected in 2013 to lead the San Diego County Sheriff's Medical Services Division as Chief Medical Officer to design and manage a medical system that provides comprehensive medical care for the 91,000+ inmate/patients who are annually booked with a daily census of 5,800+ inmate/patients who are housed at seven detention facilities throughout the San Diego region covering 4,562 square miles. I have been designing an innovative managed care model for the county jails in order to meet the medical and financial challenges of AB 109, or Public Safety Realignment. I led the creation of a Managed Care Department for central utilization review within the Sheriff's Department and established new value-based hospital contracting in inpatient and outpatient medical care over past two years. I have revised or created 50+ Departmental Medical policies to standardize medical care across seven facilities as well as revising Sheriff's department medical and psychiatric formulary to improve quality of care for patients. I have redesigned Mental Health care with a new Inmate Safety Program that is designed to reduce suicide deaths, attempts and safety cell placements. I have led the creation of a Telehealth

program which provides and expedites timely access to outpatient specialty care for inmates. Prior to the Sheriff's Department, I served as the Senior Medical Officer in Healthcare Reform at Tri-City Medical Center and as Medical Director for Volunteers of America, a non-profit organization that assists the homeless and those rehabilitating from drugs and alcohol. I have completed a two-year hospital administrative fellowship at UC San Diego after completion of my emergency medicine residency. I have worked clinically in the Emergency department at UC San Diego and at Tri-City Medical Center and currently practice clinically at the Veterans Affairs Emergency Department. I served on the Board of Directors for San Diego Health Connect a leading national health information exchange platform located in San Diego and the Council of Mentally Ill Offenders (COMIO) and was appointed by the Speaker of the House of California in 2015.

In addition to the above, I had regularly met with other jail administrators and medical directors from several jurisdictions in Southern California to discuss emerging topics and best practices. I have served as a subject matter expert for the Medical/Mental Health Workgroup for Board of State and Community Corrections (BSCC) in 2016 to make the most recent revisions to Title 15 regulations, which govern jail correctional entities in the State of California.

From August 2018 through March 2021, I joined Prime Healthcare to serve as the Corporate Director of Correctional Healthcare Services for their 45 hospitals across the country. During this time, I built hospital healthcare systems for 19+ federal agencies which included Federal Bureau of Prisons, FBI, DEA, DOJ, Border Patrol, Borders and Customs, State Prisons, and Country Jails, to take care of their inmates with various and complex medical and mental health conditions in the environment of COVID 19. In addition, I served as the Regional Chief Medical Officer for two hospitals (Alvarado and Paradise Valley Hospital located in San Diego) during this time.

Since April 2021, I serve as a correctional healthcare consultant to assist organizations and entities with improving the quality and delivery of care for inmate populations.

III. MATERIALS REVIEWED

In preparation for forming the opinions expressed below, in addition to my experience in the correctional healthcare field, I have reviewed the following materials:

1. National Commission of Correctional Health Standards, Jails, Prisons 2018
2. Northwell Health Records (Oncology Records)
3. Letters from Physicians related to Todd's Medical Care
4. Interview with Todd Kozel- related to his care and symptoms affecting his daily life
5. Phone Interview with Dr. Angelo Acquista (Board Certified Internal Medicine, Pulmonary medicine, and Tropical Medicine)- Todd's Primary Physician
6. Todd Kozel Government Sentencing Memorandum
7. BOP modified operations: https://www.bop.gov/coronavirus/covid19_status.jsp
8. BOP main information and resource page: <https://www.bop.gov/coronavirus/index.jsp>
9. BOP March 26, 2020 Home Confinement Memorandum
10. BOP April 3, 2020 Home Confinement Memorandum

IV. SUMMARY OF OPINIONS

Based on my review of the documents provided, and my education and training, as well as administrative and clinical experience in both the correctional health care and hospital setting, it is my opinion that Mr. Todd Kozel's complications related to his oncologic treatment of squamous cell carcinoma and his unique circumstances related to COVID-19 pose serious risks of morbidity and mortality if he was to be incarcerated in a correctional facility.

Mr. Todd Kozel is a 55-year-old male with a significant medical history of left tonsillar squamous cell carcinoma with metastasis which was first diagnosed in October 2020 and consequently underwent significant amounts of chemotherapy and radiation. The oncologic treatments to stop the progression of his cancer have caused major side effects that have caused not only daily residual symptoms but also which require routine, timely, and frequent specialist care in various specialties. In addition, Mr. Kozel is not vaccinated for COVID due to medical reasons related to his cancer treatments and thus would be considered higher risk of severe complications inside any correctional facility during this time. Mr. Kozel faces significant clinical risks for lapses in his medical care if he is to be incarcerated. He further poses a substantial burden to medical staff inside a federal correctional facility who would be tasked with coordinating his various specialists, off site clinic appointments, surgeries, procedures, medications, imaging, and lab studies. Moreover, with the current COVID variant, Omicron, which is considered highly transmissible, Mr. Kozel would be inevitably exposed in multiple settings to COVID (including the facilities listed in the sentencing memorandum) which pose an increased risk to him based on his co-morbid conditions. I have reviewed the facilities listed in the Government Sentencing Memorandum, and the below four opinions are serious concerns in the current environment for all healthcare facilities. (Even those healthcare systems with an exceptional reputation prior to the Pandemic)

V. OPINIONS

1. **Oncologic Risks:** Mr. Kozel found a lump in his neck in October 2020 and consequently was diagnosed with inoperable squamous cell carcinoma of the left tonsil with cervical lymphadenopathy and underwent 8 weeks of chemotherapy and 42 days of high dose radiation therapy. The radiation therapy created numerous complications including destroying his salivary glands where Todd no longer produces saliva. This has created significant morbidity where he must constantly drink water. The lack of saliva has created serious dental problems including infection, tooth decay, and gum disease. He is currently undergoing numerous procedures related to this complication which will need to be continued in an institutional incarcerated setting. He is also at risk for radiation osteonecrosis of the jawbone which requires daily hyperbaric treatments. In addition, Todd has not been found to be in remission from his cancer, and thus his surveillance for recurrent cancer is of utmost importance and will need to be coordinated for PET scan, MRI, and oncology clinic visits at specified time intervals. It should be noted the level of radiation Todd received for radiation therapy, has caused his physicians to advise against further radiation from certain tests to limit the cumulative exposure of radiation.

2. **Correctional Healthcare Coordination of Care:** Correctional facilities typically follow state minimum standards and national guidelines from organizations such as the National Commission on Correctional Healthcare (NCCHC). These facilities have clinical infrastructure to deal with many complaints that are typically designated for urgent and primary care. The challenges with these facilities come with inmates who have highly specialized care and treatment plans which place significant burden onto medical and correctional staff to coordinate care. With the complexity of Todd's current medical history, it places an undue burden onto medical staff at the correctional facility to coordinate the various aspects of his care in the current environment where access is severely impacted from staffing shortages at outside healthcare facilities.
3. **COVID 19:** Mr. Kozel had COVID for 16 days in March 2020. As a result of this infection, he suffers from long term complications related to COVID with neurological complaints such as memory disturbances and confusion. Prior to COVID, Todd had pre-existing lung disease as he was officially diagnosed with reactive airway disease and suffered two bouts of respiratory infections when working in Algeria and Brazil. Due to his oncologic treatments, his physicians advised Todd not to get the COVID vaccine as it would increase inflammation which could create serious complications that could result in morbidity and mortality. The current state of the pandemic has a highly infectious variant in Omicron which while less lethal than the original variant, poses significant risk to Todd based on his unvaccinated status and other medical conditions. It is nearly impossible for Todd to not be exposed to Omicron or future variants of COVID in an institutional setting with other inmates. The medical facilities listed in the Memorandum would not preclude Todd from contracting COVID and the related complications as this variant is unlike previous strains for its marked infectiousness. The BOP website for Coronavirus states "Since the release of the Attorney General's original memo to the Bureau of Prisons on March 26, 2020 instructing us to prioritize home confinement as an appropriate response to the COVID-19 pandemic, the BOP has significantly increased its placement of offenders on home confinement. Currently, the BOP has 5,502 inmates on home confinement. The total number of inmates placed in home confinement from March 26, 2020 to the present (including inmates who have completed service of their sentence) is 37,166." Based on review, Todd meets the clinical criteria for home confinement due to his unvaccinated COVID status due to medical reasons and his pre-existing co-morbid conditions which causes him to have an elevated risk of serious morbidity and mortality should he contract COVID while incarcerated.
4. **Correctional Medical and Correctional Staff Shortages:** Correctional Healthcare has faced significant labor and coordination challenges related to the broader issues regarding numerous job vacancies and constant staffing shortages. This is not unique to correctional healthcare and extends to many hospitals which are having a difficult time staffing and providing timely care to patients. One of the areas that has suffered is patients who require oncologic care. The constant changing testing and isolation guidelines have created numerous problems with operations which can significantly pose risks to Todd getting timely care and treatments from multiple specialists. Various institutions currently

have varying guidelines on procedures being done if a patient tests positive for COVID which can be anywhere from 10-60 days. This time delay even when a patient is asymptomatic can bring devastating results with oncologic care where untimely treatment can cause cancer to spread to other parts of the body. Thus, it would be significantly safer for Todd to receive his medical care in a non-correctional setting.

My opinions in this case are given with a reasonable degree of medical probability and is based on my experience in the correctional health field and clinical arenas, and upon the documentation provided to me for review. My opinions have never been disqualified in court. I reserve the right to change this opinion in the event additional documentation is provided in this matter.

VI. PRESENTATIONS

1. Public Safety Group CAO Quarterly Presentation Panel – Mental Health in Regards to Public Safety Realignment – February 2014
2. Neighborhood House Association – Mental Health Presentation – March 2014
3. Citizens Law Enforcement Review Board Presentation – Suicide Prevention Strategies – June 2014
4. Open Minds Presentation – Mental Health in San Diego County Jails – August 2014
5. California State Sheriffs' Association – Affordable Care Act – August 2014
6. National Commission on Correctional Health Association – Viewing Correctional Healthcare as a Payor – October 2014
7. Honorary Sheriff Deputy Association- Redesigning Medical and Mental Healthcare in San Diego County Jails: A life and death challenge 2015
8. Police Chief's Presentation: Redesigning Medical and Mental Healthcare: 5 Year Plan
9. San Diego Mental Health Coalition: Mental Health care in San Diego Jails – April 2015
10. Citizens Law Enforcement Review Board Presentation – Suicide Prevention Strategies – July 2015
11. Behavioral Health Advisory Board- Nov 2015
12. San Diego Law Society- Redesigning Mental Health Care in Jails Nov 2015
13. National Commission on Correctional Health Association – Inmate Safety Program – April 2016
14. Grand Jury Presentation- Mental Health San Diego Jails July 2016
15. California Coalition for Mental Health - Correctional Mental Health Care September 2016
16. San Diego Organization of Healthcare Leaders (SOHL) Correctional Healthcare and Information Technology: San Diego County Jails and San Diego Health Connect October 2016
17. American Correctional Health Services Association - Inmate Safety Program- San Diego Jails October 2016
18. Mental Health Services OAC: Jail Mental Health Services (Panel Discussion)- March 2017

19. Past Grand Jury Association- June 2017: Overview of Jail Medical and Mental Health Services
20. California Crisis Intervention Training Association (CCITA): Redesigning Medical and Mental Health Services in Jails August 2017
21. Health Trained Deputy Sheriff Training- August 2018
22. Emergency Medical Response Oversight Committee (EMOC): Jail Medical and Mental Health Service February 2018
23. UC San Diego Department of Psychiatry Presentation: Correctional Medicine- March 2018
24. Citizens Law Enforcement Review Board (CLERB): Future of Jail Medical and Mental Health Services- February 2018
25. National Commission on Correctional Health Association – Evolution of a Suicide Prevention Protocol – April 2018
26. National Commission on Correctional Health Association – Hepatitis A Outbreak and a County Jail Response – April 2018
27. Mental Health Symposium- Jail Mental Health Expert Speaker – April 2018

VII. PUBLICATIONS

1. Joshua A, Chan T., Castillo E.; A Tool for Emergency Department Throughput: Using Maximum ED Bed Time to Reduce Wait Times and the Number of Left Without Being Seen Patients *Annals of Emergency Medicine* 9/2010 (Abstract)
2. Nordt SP, Minns A, Carstairs S, Kreshak A, Campbell C, Tomaszewski C, Hayden SH, Clark RF, Joshua A, Ly BT: Mass sociogenic illness initially reported as carbon monoxide poisoning. *J Emerg Med* 2012;42(2):159-161.
3. Campbell, Joshua, Medak, et al. Is ultrasound-guided subclavian vein cannulation more successful than traditional methods? *Academic Emergency Medicine*. 2011; Blackwell Publishing Ltd. Vol 18(5) S211. (abstract)
4. Karla DW, Bovet J, Haynes B, Joshua A, et al. Training law enforcement to respond to opioid overdose with naloxone: Impact on knowledge, attitudes, and interactions with community members. *Drug and Alcohol Dependence* 2016
5. Degner N, Joshua A, et al. Comparison of Digital Chest Radiography to Purified Protein Derivative for Screening of Tuberculosis in Newly Admitted Inmates. *Journal of Correctional Healthcare* 2016 Vol. 22(4) 322-330

Book Chapters:

1. Joshua A: Blunt neck trauma. In: Rosen and Barkin's 5-Minute Emergency Medicine Consult (fourth edition). Schaidt J, Hayden SR, Wolfe R, Barkin RM, Barkin A, Shayne P, Rosen P (Eds.); Philadelphia: Lippincott Williams & Wilkins, 2010,
2. Joshua A: Subarachnoid hemorrhage. In: Rosen and Barkin's 5-Minute Emergency Medicine Consult (fourth edition). Schaidt J, Hayden SR, Wolfe R, Barkin RM, Barkin A, Shayne P, Rosen P (Eds.); Philadelphia: Lippincott Williams & Wilkins, 2010
3. Joshua A: Abdominal Imaging, Trauma. In: Rosen and Barkin's 5-Minute Emergency Medicine Consult (fourth edition). Schaidt J, Hayden SR, Wolfe R, Barkin RM, Barkin A, Shayne P, Rosen P (Eds.); Philadelphia: Lippincott Williams & Wilkins, 2013

VIII. CASES (Involving Deposition or Trial Testimony in the Past Four Years)

1. Villalon v. Cameron County (Deposition)- February 2018 (CASE NO. CA NO 1:15-cv-00161)
2. NeSmith v County of San Diego (Deposition) February 2018 (CASE NO. 3:2015cv00629)
3. Nagy v County of Orange (Deposition) March 2018 (CASE NO. 30-2015-00827446-CU-PP-CJC)
4. Scott et al. v Clarke et al. (Deposition) April 2018 (CASE NO. 3:12-cv-36)
5. Russell v County of Orange (Deposition) May 2018 (CASE NO. 17-cv00125 JLS (DFM)
6. The People v Avignone et al. (Hearing) May 2018 (Super Ct. SCD250640)
7. Scott et al. v Clarke et al. (Trial Testimony) June 2018 (CASE NO. 3:12-cv-36)
8. Nishimoto v County of San Diego (Deposition)- November 2018 (CASE NO. 3:16-cv-01974-BEN-JMA)
9. Parker v Christian County (Deposition)- March 2019 (CASE NO. 6:17-cv-03154)
10. Gordon v County of Orange (Deposition)- May 2019 (CASE NO. SACV 14-01050 CJC (DFMx)
11. Nagy v County of Orange (Deposition)- May 2019 (CASE NO. 30-2015-00827446-CU-PP-CJC)
12. Coy v Corizon Inc et al. (Deposition)- December 2019 (CASE NO. 14-CI-02076)
13. Estate of Ruth Freiwald v Adeyemi Fatoki et al. (Deposition)- February 2020 (CASE NO. 18-CV-896)
14. Washington v Kohl's Department Stores et al. (Deposition)- March 2020 (CASE NO. 5-19-cv-00397-JGB-SHK)
15. Cavanaugh v County of San Diego et al. (Deposition)- May 2020 (CASE NO. 3:2018-cv-02557)
16. Lockett v County of Los Angeles et al. (Deposition)- August 2020 (CASE NO: 2:18-cv-05838-PJW)
17. Pfaller v Armor Correctional et al. (Deposition)- August 2020 (CASE NO: 3:19-cv-728)
18. M.H.C. v County of Los Angeles et al. (Deposition)- September 2020 (CASE NO: 2:18-cv-08305)
19. Kangas v County of Orange et al. (Deposition)- January 2021 (CASE NO: 8:18-cv-02063-JVS-DFM)
20. Ryan v Wyoming Department of Corrections et al. (Deposition)- February 2021 (Civil No: 20-CV-98-J)
21. Zuniga v County of San Bernardino et al. (Deposition)- May 2021 (CASE NO: CIVDS-1620852)
22. Bestafka v Kings County et al. (Deposition)- July 2021 (CASE NO: 18C-0256)
23. Neal v Wexford Health Services et al. (Deposition)- July 2021 (1:15-cv-03278-ELH)
24. Greer v County of San Diego et al. (Deposition)-August 2021 (CASE NO 19-cv-0378-GPC-DEB)
25. Estate of Ruth Freiwald v Adeyemi Fatoki et al. (Trial Testimony)- August 2021 (CASE NO. 18-CV-896)
26. Washington v Armor Correctional Health et al. (Deposition)- September (Vol 1) and October (Vol 2) 2021 (CASE NO: 3:20-CV-88)

27. Johnson v CFMG et al. (Deposition)- December 2021 (CASE NO: 2:19-cv-01722-JAM-DB)
28. Lee v Turn Key Health Clinics et al. (Deposition)- December 2021 (CASE NO: 19-cv-318-GKF-JFJ)

Executed on January 21, 2022, in San Diego, California

A handwritten signature in blue ink, appearing to read "Alfred Joshua MD", is written above a horizontal line.

Alfred Joshua, MD, MBA, CCHP-P, FAAEM